

REMARKS

Claim 1 has been amended to require the claimed composition to be an emulsion.

Support for this amendment exists throughout the present specification, including example A.

Claim 17 has been amended in a non-limiting manner. Claim 17 requires the presence of ethanol as the C₂-C₃ monoalcohol. In view of this amendment, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112.

Claims 1-11, 13-15 and 17-24 are currently pending, although claims 20, 22 and 23 have been withdrawn from consideration.

The Office Action rejected claims 1-11, 13-15, 17 and 24 under 35 U.S.C. § 103 as obvious over U.S. patent 6,007,799 (“Lee”) in view of U.S. patent 7,262,158 (“Lukenbach”). In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of this rejection.

The present invention relates to the discovery of a way to address stability problems suffered by emulsions containing a significant amount of monoalcohol and a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids, which is polyoxyethylenated and/or polyoxypropyleneated. As illustrated by Table 1 in the present specification (pages 21-22), emulsions which contain a significant amount of monoalcohol and a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids, which is polyoxyethylenated and/or polyoxypropyleneated (composition 3) are unstable. In contrast, emulsions containing either a significant amount of monoalcohol (composition 4) or a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids, which is polyoxyethylenated and/or polyoxypropyleneated (composition 2) are stable. Thus, the combination of a significant amount of monoalcohol and a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂

fatty acids, which is polyoxyethylenated and/or polyoxypropylenated, in a single emulsion composition has been problematic despite the use of each of these ingredients individually in such compositions.

The present invention provides a way to improve stability properties of emulsions containing both a significant amount of monoalcohol and a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids, which is polyoxyethylenated and/or polyoxypropylenated. The present invention accomplishes this improved stability by adding a specific type of silicone surfactant to the emulsion in an amount sufficient to improve the stability of the emulsion. (See, composition 1 in Table 1 of the present specification).

Nothing in the applied art teaches or suggests this invention.

The Office Action has recognized that Lee neither teaches nor suggests the required glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids, which is polyoxyethylenated and/or polyoxypropylenated. In an attempt to compensate for this fatal deficiency, the Office Action has asserted that one skilled in the art would have been motivated to use one of Lukenbach's surfactants in Lee's compositions to yield the claimed invention. For at least the following reasons, this reasoning is flawed.

Lee discloses compositions containing a coupling agent and an alkoxylated silicone surfactant. (See, cols. 11-12). An acceptable coupling agent is ethanol (col. 11, line 10), and the ethanol can be present in significant amounts. (Col. 11, lines 57-60). Thus, Lee's compositions already contain a significant amount of ethanol and a silicone surfactant. Given the stability problems associated with compositions containing a significant amount of monoalcohol and a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids (as illustrated in Table 1 of the present application), no motivation whatsoever would have

Application No. 10/812,956
Response to Notice dated November 15, 2007

existed to add a glyceride of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids to Lee's compositions --- that is, given such stability problems, one skilled in the art would have expected such an addition to detract from the stability of Lee's compositions, thereby motivating against the addition of a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids to Lee's compositions.

Furthermore, Lukenbach describes a cleansing composition containing volatile or non-volatile liquid silicone, water-dispersible component and liquid ester, a composition which is not limited to emulsions containing a water phase dispersed in a fatty phase. Lukenbach states that polyethylene glycol-6 caprylic/capric glyceride is one of numerous compounds that could be used as a water-dispersible component. (Col. 4, lines 18-19). However, Lukenbach neither teaches nor suggests that such a compound would allow an aqueous phase to disperse more easily in a fatty phase and, thus, result in a more stabilized emulsion. Rather, Lukenbach teaches that his compositions are stabilized by using polymeric emulsifiers or thickeners. (Col. 7, lines 36-42; col. 8, lines 13-23). Thus, Lukenbach does not teach or suggest using polyethylene glycol-6 caprylic/capric glyceride as an emulsifying agent for any emulsion, let alone a particular type of emulsion having an aqueous phase dispersed in a fatty phase.

It is only because of the present application which teaches that the claimed silicone surfactants can improve stability of an emulsion that such an addition makes sense. That is, it is only through improper hindsight, using information from the present application, that one skilled in the art would have been motivated to add a C₆ to C₂₂ fatty acid or of a mixture of C₆ to C₂₂ fatty acids to Lee's compositions with the expectation that a stable emulsion would result. Without the present invention, the expectation would have been that such a

Application No. 10/812,956
Response to Notice dated November 15, 2007

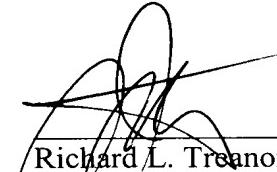
composition would have been unstable and, thus, the motivation would have been against making such a combination.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

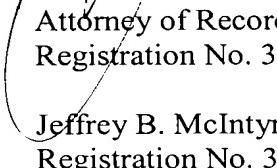
Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379



Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel.: (703) 413-3000
Fax: (703) 413-2220